

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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2008 OCT -3 P 3:35

U.S. DISTRICT COURT
DISTRICT OF NEVADA

BY _____ DEPUTY

Aidan Monaghan,

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Plaintiff,

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vs.

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Case No.: 2:07-cv-01614-RCJ-GWF

)

Federal Bureau of

)

Investigation,

)

)

Defendants.

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PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

In support of this motion, the plaintiff relies upon the accompanying memorandum. A proposed order consistent with this motion is attached.

Dated: October 2, 2008

Respectfully submitted,

/s/ Aidan Monaghan

AIDAN MONAGHAN

Plaintiff *pro se*

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

Aidan Monaghan,

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Plaintiff,

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Case No.: 2:07-cv-01614-RCJ-GWF

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MEMORANDUM OF POINTS AND AUTHORITIES

IN SUPPORT OF

PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

Re: Defendant's First Affirmative Defense

Contrary to defendant's allegation, the Court possesses subject matter jurisdiction over plaintiff's complaint because defendant has improperly withheld information within the meaning of the Freedom of Information Act ("FOIA"), as the records obtained by defendant and sought by plaintiff cannot "interfere with enforcement proceedings" (per Title 5, United States Code, Section 552, subsection (b) (7) (A)), as they are the basis for the F.B.I's. already publicly known opinions regarding the matter at hand, the publication of which was not predicted by defendant, to "interfere with enforcement proceedings", as alleged. Moreover, defendant concedes that a

search for responsive records alleged to be exempt from disclosure, was in fact initiated only upon receipt of plaintiff's amended complaint.

Re: Defendant's Second Affirmative Defense

Contrary to defendant's allegation, the FOIA request that is the subject of this lawsuit cannot implicate certain information that is protected from disclosure by one or more statutory exemptions, as defendant concedes that a search for responsive records alleged to be exempt from disclosure, was in fact initiated only upon receipt of plaintiff's amended complaint.

Re: Defendant's Third Affirmative Defense

Contrary to defendant's allegation, plaintiff exhausted all administrative remedies prior to initiating current action, as indicated by defendant's admitted existence of plaintiff's appropriate administrative correspondence.

Summary

Defendant has alleged that no responsive agency records were generated. However, also subject to release are those records obtained by defendant from other federal organizations or private organizations, such as Federal Aviation Administration and airline records for each aircraft. There is no practical distinction between the four aircraft alleged by defendant to be hijacked on September 11, 2001 and any wreckage generated by, collected and identified as being of the same four aircraft alleged by defendant to be hijacked on September 11, 2001.

Conclusion

For the foregoing reasons, the Court is respectfully asked to enter summary judgment for the plaintiff.

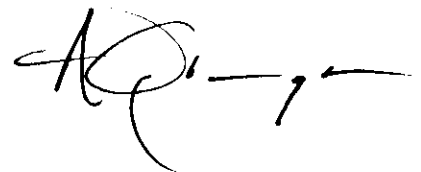
Dated: October 2, 2008

Respectfully submitted,

/s/ Aidan Monaghan

AIDAN MONAGHAN

Plaintiff *pro se*

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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

Aidan Monaghan,

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Plaintiff,

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Case No.: 2:07-cv-01614-RCJ-GWF

)

Federal Bureau of

)

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)

Defendants.

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ORDER

UPON CONSIDERATION of the Plaintiff's motion for summary judgment and the entire record in this case, it is this ____ day of _____, 2008, ORDERED that Plaintiff's motion for summary judgment is hereby GRANTED. Defendant shall process the requested records under the provisions of the Freedom of Information Act within 30 days. Defendant shall release to the Plaintiff all portions of the requested records.

United States District Judge

PROOF OF SERVICE

I, Aidan Monaghan, certify that the following individuals were served on this date by the below identified method of service:

Certified U.S. Mail

GREGORY A. BROWER

United States Attorney

District of Nevada Nevada State Bar No. 5232

PATRICK A. ROSE

Assistant United States Attorney

Nevada State Bar No. 5109

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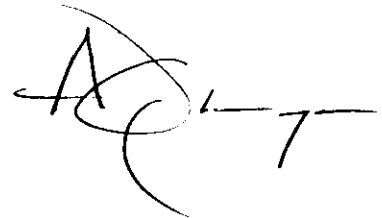
Assistant Branch Director United States Department of Justice

STEPHEN J. BUCKINGHAM

United States Department of Justice

20 Massachusetts Ave. NW Rm. 7119 Washington, DC 20530

DATED: October 3, 2008

A handwritten signature in black ink, appearing to read 'Aidan Monaghan', with a stylized flourish at the end.